

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

YESENIA HERRERA,
Plaintiff,
v.

UNITED STATES DISTRICT COURT,
Defendant.

Case No. [21-cv-02408-JCS](#)

ORDER TO SHOW CAUSE

INTRODUCTION

Petitioner, a federal prisoner, filed a petition for a writ of habeas corpus under 28 U.S.C. § 2241 challenging the Federal Bureau of Prisons's computation of her sentencing credits.¹ She has paid the filing fee. Because the petition, when liberally construed, states a claim that may warrant federal habeas relief, Respondent is ordered to show cause why it should not be granted.

DISCUSSION

I. Standard of Review

A district court may entertain a petition for a writ of habeas corpus challenging the execution of a federal sentence only on the ground that the sentence is being executed "in violation of the Constitution or laws or treaties of the United States." 28 U.S.C. § 2241(c)(3); *United States v. Giddings*, 740 F.2d 770, 772 (9th Cir. 1984). The Court should "award the writ or issue an order directing the respondent to show cause why the writ should not be granted, unless it appears

¹ Petitioner has consented to the jurisdiction of a United States Magistrate Judge pursuant to 28 U.S.C. § 636(c). (ECF No. 5.)

from the application that the applicant or person detained is not entitled thereto." 28 U.S.C. § 2243.

II. Legal Claims

Petitioner claims that prison officials have failed to give her sentencing credits for the time she served in state prison. She further argues that they have done so to retaliate against her for filing an appeal. When liberally construed, these allegations state a cognizable claim for federal habeas relief.

CONCLUSION

For the foregoing reasons and for good cause shown,

1. The Clerk shall serve a Magistrate Judge jurisdiction consent form, a copy of this Order, and the petition, and all attachments thereto, on Respondent and Respondent's attorney, the United States Attorney. The Clerk also shall serve a copy of this Order on Petitioner.

2. Respondent shall complete and file the Magistrate Judge jurisdiction consent form in accordance with the deadline provided on the form.

3. Respondent shall also file with the Court and serve on Petitioner, within **ninety-one (91) days** of the date this Order is issued, an answer showing cause why a writ of habeas corpus should not be granted. Respondent shall file with the answer and serve on Petitioner a copy of all records that are relevant to a determination of the issues presented by the petition. If Petitioner wishes to respond to the answer, he shall do so by filing a traverse (a reply) with the Court and serving it on Respondent within **twenty-eight (28) days** of the date the answer is filed.

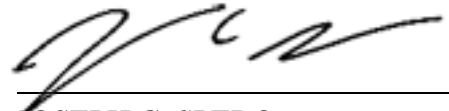
4. Respondent may, within **ninety-one (91) days** of the date this Order is issued, file a motion to dismiss on procedural grounds in lieu of an answer. If Respondent files such a motion, Petitioner shall file with the Court and serve on Respondent an opposition or statement of non-opposition within **twenty-eight (28) days** of the date the motion is filed, and Respondent shall file

1 with the Court and serve on Petitioner a reply within **fourteen (14)** days of the date any opposition
2 is filed.

3 5. It is Petitioner's responsibility to prosecute this case. Petitioner must keep the Court
4 informed of any change of address by filing a separate paper captioned "Notice of Change of
5 Address." He must comply with the Court's orders in a timely fashion. Failure to do so may
6 result in the dismissal of this action for failure to prosecute pursuant to Federal Rule of Civil
7 Procedure 41(b).

8 **IT IS SO ORDERED.**

9 Dated: May 14, 2021

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12 JOSEPH C. SPERO
13 United States Chief Magistrate Judge
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